

Message Text

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ORIGIN TRSE-00

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L-03 LAB-04 NSAE-00 NSC-05 PA-02 CTME-00 AID-05
SS-15 ITC-01 USIA-15 PRS-01 SP-02 SOE-02 OMB-01
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DRAFTED BY TREAS:THUME:JH
APPROVED BY EB/OT/STA:TO'HERRON
EB/OT/STA:CHBLUM
STR:TSTEWART
EB/OT/GCP:JSLATTERY (INFO)
TREAS:PEHRENHAFT

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TO USMISSION GENEVA PRIORITY

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E.O. 11652: N/A

TAGS:ETRD, GATT

SUBJECT: ANTI-DUMPING PRACTICES -- REQUEST FOR LISTS OF
ISSUES

REF: A) GENEVA 12536 B) STATE 303916

1. PLEASE TRANSMIT TO GATT SECRETARIAT FOLLOWING LIST OF
ANTIDUMPING ISSUES WHICH U.S. WISHES TO BE DISCUSSED IN
THE CONTEXT OF THE ANALYTICAL INVENTORY. FYI. TWO
ITEMS, NUMBERS 4 AND 10, WERE INCLUDED IN THE LIST SUB-
SEQUENT TO TREASURY ASSISTANT SECRETARY EHRENHAFT'S LETTER
TO EC, AUSTRALIAN AND CANADIAN OFFICIALS (REFTEL) AND
HAVE NOT BEEN SEEN BY THEM. END FYI.

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BEGIN TEXT.
LIST OF ISSUES FOR GATT ANTI-DUMPING COMMITTEE

LISTED BELOW ARE THE ISSUES, IN ORDER OF PRIORITY, WHICH
THE UNITED STATES FEELS SHOULD BE DISCUSSED IN THE GATT
ANTI-DUMPING COMMITTEE IN CONNECTION WITH THE ANALYTICAL
INVENTORY.

1. ALLOWANCES RELATING TO PRICE COMPARABILITY. IN DISCUSSING THIS ISSUE, CONSIDERATION SHOULD BE GIVEN BOTH

TO THE TYPES AND TO THE METHODS OF MAKING APPROPRIATE ADJUSTMENTS FOR CIRCUMSTANCES AFFECTING PRICE COMPARABILITY. FREQUENTLY A CONSIDERABLE NUMBER OF ADJUSTMENTS ARE CLAIMED FOR DIFFERENCES IN CONDITIONS AND TERMS OF SALE AND OTHER DIFFERENCES AFFECTING PRICE COMPARABILITY. EVEN WHERE IT CAN BE SUBSTANTIATED THAT DIFFERENCES EXIST, AND SUCH DIFFERENCES ARE DIRECTLY RELATED TO THE SALES UNDER CONSIDERATION, IT IS OFTEN NECESSARY TO ALLOCATE COSTS IN A REASONABLE MANNER. (SECTION A(3)(A), (C)(I) AND (II), AND (D)).

2. ADJUSTMENTS FOR DIFFERENCES IN THE MERCHANDISE. IN DISCUSSING THIS ISSUE, CONSIDERATION SHOULD BE GIVEN TO THE APPROPRIATENESS OF MAKING ADJUSTMENTS BASED UPON COMPONENT COSTS VERSUS MARKET VALUE OF THE DIFFERENT PRODUCTS SOLD IN THE TWO MARKETS. UNDER U.S. PROCEDURE, PREFERENCE IS GIVEN TO MAKING ADJUSTMENTS BASED UPON COST DIFFERENCES IN THE MERCHANDISE, THOUGH ADJUSTMENTS BASED UPON MARKET VALUE DIFFERENCES MAY BE USED IF APPROPRIATE. IN ADDITION, WHEN ADJUSTMENTS APPEAR TO REPRESENT A LARGE PERCENTAGE OF THE VALUE OF THE EXPORT ARTICLE, IT MUST BE CONSIDERED WHETHER THAT ARTICLE IS UNCLASSIFIED

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SUFFICIENTLY COMPARABLE TO AN ARTICLE SOLD IN THE HOME MARKET (OR TO THIRD COUNTRIES) SO COMPARISONS WITH PRICES ARE MEANINGFUL. (SECTION A(1) (B)).

3. PRICE UNDERTAKINGS. IN DISCUSSING THIS ISSUE, CONSIDERATION SHOULD BE GIVEN TO THOSE CIRCUMSTANCES UNDER WHICH STEPS CAN, OR SHOULD, BE TAKEN TO REMEDY A DUMPING SITUATION SHORT OF THE IMPOSITION OF EITHER PROVISIONAL MEASURES OR DUMPING DUTIES. UNDER U.S. PROCEDURES, INVESTIGATIONS ARE DISCONTINUED GENERALLY WHEN THE DUMPING MARGINS ARE ONLY MINIMAL AND ASSURANCES TO TERMINATE DUMPING SALES ARE RECEIVED. (SECTION C(10)).

4. STATE-CONTROLLED-ECONOMY COUNTRIES. IN DISCUSSING THIS ISSUE, CONSIDERATION SHOULD BE GIVEN TO ANY APPROPRIATE CRITERIA WHICH COULD BE USED TO DETERMINE WHETHER SALES IN THE HOME MARKET OF A STATE-CONTROLLED-ECONOMY COUNTRY CAN RELIABLY BE USED TO DETERMINE NORMAL VALUE. IN THE ABSENCE OF RELIABLE HOME MARKET (OR THIRD COUNTRY) SALES, CONSIDERATION SHOULD BE GIVEN TO OTHER BASES UPON WHICH NORMAL VALUE COULD BE BASED. (SECTION A(2) (C)).

5. INITIATIONS. IN DISCUSSING THIS ISSUE, CONSIDERATION SHOULD BE GIVEN TO MINIMUM STANDARDS IMPOSED UPON THOSE FILING COMPLAINTS, AS WELL AS THE ADMINISTRATIVE REVIEW

EACH OF THE SIGNATORIES SHOULD MAKE AVAILABLE FOR CONSIDERATION AND DISCUSSION THEIR CURRENT GUIDELINES FOR COMPLAINTS. (SECTION C(1)).

6. PROVISION OF INFORMATION TO PARTIES CONCERNED. IN DISCUSSING THIS ISSUE, CONSIDERATION SHOULD BE GIVEN TO THE PROCEDURES OF THE SIGNATORIES TO MAKE INFORMATION AVAILABLE TO ALL PERSONS INTERESTED IN AN INVESTIGATION, AND TO PROVIDE SUCH PERSONS WITH AN OPPORTUNITY TO UNCLASSIFIED

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PRESENT VIEWS. UNDER U.S. PROCEDURES, ANY INTERESTED PERSON HAS A NUMBER OF OPPORTUNITIES TO PRESENT VIEWS PRIOR TO DETERMINATIONS BEING MADE. (SECTION C(4)).

7. JUDICIAL OR ADMINISTRATIVE REVIEW. IN DISCUSSING THIS ISSUE, CONSIDERATION SHOULD BE GIVEN TO THE TIME LINES AND ADEQUACY OF ANY JUDICIAL AND/OR ADMINISTRATIVE REVIEW PROCEDURE. EACH OF THE CODE SIGNATORIES SHOULD MAKE AVAILABLE FOR CONSIDERATION AND DISCUSSION CURRENT PROCEDURES AS THEY APPLY TO JUDICIAL AND ADMINISTRATIVE REVIEW. (SECTION D(3)).

8. USE OF INFORMAL AND COERCIVE PROCEDURES. IN DISCUSSING THIS ISSUE, CONSIDERATION SHOULD BE GIVEN TO THE USE OF INFORMAL, NON-PUBLIC, PROCEDURES FOR RESOLVING TRADE PROBLEMS MOST SUITABLE FOR APPLICATION OF EACH SIGNATORY'S ANTIDUMPING LAWS. THIS ISSUE MAY OVERLAP WITH THE DISCUSSION OF OTHER ISSUES NOTED ABOVE, BUT SHOULD FOCUS ON THE UNIFORMITY OF APPLICATION OF DUMPING LAWS. (SECTION D(4)).

9. SALES AT A LOSS. IN DISCUSSING THIS ISSUE, CONSIDERATION SHOULD BE GIVEN TO A DISCUSSION OF THE CIRCUMSTANCES WHEN RESORT SHOULD BE HAD TO COST OF PRODUCTION AND THE COST ELEMENTS TO BE INCLUDED. IT WOULD ALSO BE APPROPRIATE TO INCLUDE A DISCUSSION OF THE EXTENT TO WHICH THE ACCOUNTING PRINCIPLES IN THE COUNTRY OF EXPORTATION CAN BE UTILIZED TO ADEQUATELY REFLECT COSTS ASSOCIATED WITH PRODUCING THE ARTICLE UNDER INVESTIGATION. UNDER U.S. PROCEDURES, THE ACCOUNTING PRINCIPLES GENERALLY UTILIZED IN THE COUNTRY OF EXPORTATION WILL BE USED IF SUCH PRINCIPLES REASONABLY REFLECT THE VARIABLE AND FIXED COSTS OF PRODUCING THE MERCHANDISE. (SECTION UNCLASSIFIED

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A(2)(A)).

10. DUMPING BY TRANSNATIONAL CORPORATIONS. IN DISCUSSING THIS TOPIC, CONSIDERATION SHOULD BE GIVEN TO THE METHOD FOR DETERMINING NORMAL VALUE WHEN SALES BY ONE SEGMENT OF A TRANSNATIONAL CORPORATION IN THE EXPORTING COUNTRY'S HOME MARKET ARE INADEQUATE TO DETERMINE SUCH VALUE. IT

MAY BE NECESSARY IN SUCH A CONTEXT TO CONSIDER WHETHER THE CODE REQUIRES AMENDMENT TO ESTABLISH APPROPRIATENESS OF DEALING WITH INTERNATIONAL PRICING PRACTICES OF TRANSNATIONAL CORPORATIONS. (SECTION A(2)(D)).

11. CONCEPT OF DUMPING. WHILE NOT PREVIOUSLY CONSIDERED, OTHER ISSUES HAVE BEEN RAISED AND APPEAR WORTHY OF CONSIDERATION BY THE CODE SIGNATORIES. FOR EXAMPLE, IT SHOULD BE CONSIDERED WHETHER PRODUCTS WHICH USE MATERIALS OBTAINED AT PRICES BELOW COST MAY BE CONSIDERED

AS BEING DUMPED. EVEN IF IT APPEARS AS THOUGH PRICES IN ALL MARKETS ARE EQUIVALENT, SHOULD A COST OF PRODUCTION BE UTILIZED WHEN, FOR EXAMPLE, THE EXPORTED ARTICLE HAS ONLY A MODEST VALUE ADDED COMPONENT (E.G., 20) AND SUFFICIENT ALLEGATIONS ARE MADE THAT THE MATERIALS FROM WHICH THE ARTICLE IS FABRICATED ARE OBTAINED AT PRICES BELOW COST. (SECTION A(1))? END TEXT. VANCE

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